



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
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DOUGLAS A. DUCEY
Governor

MICHAEL J. TROYAN
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
August 3, 2017

Members Present: Michael J. Troyan – Chair, Troy L. Campbell – Vice Chair, Michael N. Widener, and John M. McLoughlin

Members Absent: None

Counsel Present: Michael Raine, Assistant Attorney General
Brian M. Bergin, Independent Legal Advisor for the Board

Staff Present: Denise Bale, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on August 3, 2017 at 10:00 a.m. with Mr. Troyan presiding.

Roll Call

All members were present. New member John M. McLoughlin was introduced.

B. 10:00 a.m. Agenda: Review, consideration and action

1. Bar Liquor License No. 06070360 – Person and Location Transfer Application

From:
Randy Nations, Agent
Taco Stand, LLC
San Felipe's Cantina
2000 E. Rio Salado Parkway #G4
Tempe, AZ 85281

To:
Thomas R. Aguilera, Agent
Tohono O'odham Gaming Enterprise
Desert Diamond Casino –
West Valley Resort
9431 W. Northern Avenue
Glendale, AZ 85305

This matter was originally set for hearing on June 27, 2016, because of Department of Liquor Licenses and Control ("DLLC") protest and public protests. At that time, the State of Arizona and the Tohono O'odham Nation were involved in litigation in United States District Court for the District of Arizona. DLLC and Tohono O'odham Gaming Enterprise ("TOGE") stipulated to continue the hearing before the State Liquor Board up to one year or until the litigation in District Court was resolved. Following the District Court's decision, DLLC withdrew its protest of TOGE's application and the matter was set for hearing on August 3, 2017.

The Applicant, TOGE, appeared at the hearing and was represented by counsel, Thomas R. Aguilera and Justin M. Ruggieri. Brian M. Bergin and Carolyn Oberholtzer provided independent legal advice to the Board.

Motion to convene in executive session for the purpose of receiving legal advice -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan, McLoughlin
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 10:03 a.m. and reconvened in open session at 10:24 a.m.

Motion to deny Applicant's request to cancel the hearing	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan, McLoughlin
Nay -	None
Abstained -	None
Disposition -	Hearing will proceed as planned

Mr. Aguilera requested in the alternative for an affirmative ruling permitting him to *voir dire* any alleged public protestors prior to the Board's hearing on the merits. Mr. Troyan asked the audience to identify themselves if they were a public protestor in this matter. None of the public protestors appeared or were represented by counsel at the hearing. Mr. Aguilera proceeded with opening remarks and a request to stipulate to capability, qualifications and reliability. Mr. Widener made a motion to accept the proffer of a stipulation on the CQR aspect insofar as the record that had been submitted seems to support that those standards have been met and therefore, that the Board focus on location only.

Motion to focus the hearing on location -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan, McLoughlin
Nay -	None
Abstained -	None
Disposition -	Hearing will focus on location

Glendale Vice Mayor Ian Hugh, TOGE Chief Executive Officer Andrew Asselin, Tohono O'Odham Police Chief Charles Hangartner, Dr. Denton Santarelli, retired superintendent of Peoria Unified School District, TOGE Assistant Director of Development Ascencion Muniz, TOGE Head of Security Joe Delgado, SIMG Chief Executive Office Matt Smith, TOGE General Manager Henry Childs, and Tina Holly appeared in support of the Applicant. Vice Mayor Hugh, Mr. Asselin, and Dr. Santarelli testified. There were questions from the Board.

Mr. Campbell made a motion regarding Liquor License No. 06070360: The Board finds that the Applicant's personal qualifications are not contested and that the record before the Board establishes the Applicant is capable, qualified and reliable, as required by A.R.S. § 4-203, to hold a liquor license. And based on the following location factors, that Peoria Unified School District voted to approve the location and there have been no issues according to the former superintendent at the District since opening the casino; the casino has been Title 4 compliant and completed training of all employees; and it won't be serving 24 hours a day, seven days a week; that Tohono O'Odham Police Department has a substation on the premises; and there is a small wall to buffer the nearby Raymond Kellis High School; and there is a positive amount of jobs brought to the community of Glendale; I move that we find the public convenience does require and the best interest of the community will be served, as required by A.R.S. § 4-203(A), by granting the liquor license to this location and that the application for location transfer be granted.

Motion to grant license -	Campbell
Seconded -	Widener
Yay -	Campbell, Widener, Troyan, McLoughlin
Nay -	None
Abstained -	None
Disposition -	License granted

The Board recessed from 11:07 a.m. to 11:20 a.m.

2. Restaurant Liquor License No. 1207A940 – Original Application

Jeffrey Craig Miller, Agent
PJ Food Services LLC
J's Kaiyo Sushi & Bar
4412 N. Miller Road
Scottsdale, AZ 85251

This matter was set for hearing because of public protest. The Applicant, PJ Food Services LLC, appeared at the hearing and was represented by counsel, Kevin Fallon McCarthy. PJ Food Services LLC Member Pajman Malihi, Agent Jeffrey Craig Miller, and Manager Clayton Handley appeared and testified in support of the Applicant. Public Protestor J&M Food Services, LLC was represented by counsel, James M. LaGanke and Marvin W. Manross. Richard Greene and David Wojdula appeared and testified in support of the Protestor.

Mr. McCarthy presented a brief statement. Mr. Manross presented an opening statement regarding the moral character of the Applicant. Mr. McCarthy called Mr. Malihi to testify. Mr. Malihi works as a handyman. Mr. Malihi pleaded guilty to a felony conviction on September 23, 2008. Mr. Malihi testified that he does not have any other felony convictions and that he does not distribute marijuana across state lines. In addition, Mr. Malihi testified that to his knowledge he does not engage in any activity related to narcotics that is against the law. Mr. Manross cross-examined Mr. Malihi about current and former business partners, the house in which he lives, and errors in his application for a liquor license.

Motion to convene in executive session	
for the purpose of receiving legal advice -	Campbell
Seconded -	Widener
Yay -	Campbell, Widener, Troyan, McLoughlin
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 11:50 a.m. and reconvened in open session at 11:58 a.m.

There were questions from the Board for Mr. Malihi.

Mr. LaGanke called Richard Greene as his first witness. Mr. Greene testified about an event that occurred in Scottsdale on February 8, 2017. There was Board discussion and additional questions for Mr. Malihi. Mr. McCarthy cross-examined Mr. Greene. There were questions from the Board for Mr. Greene.

Mr. LaGanke called his next witness, David Wojdula. Mr. Wojdula testified about a meeting he had with Mr. Malihi in mid-August 2016. Mr. McCarthy cross-examined Mr. Wojdula. There were questions from the Board for Mr. Malihi regarding Mr. Wojdula's testimony. Mr. Manross called Clayton Handley and questioned him about the notice of a pending liquor license application that is posted on the proposed licensed premises. Craig Miller testified that the responsibility of posting the notice is with the City of Scottsdale.

Mr. McCarthy presented his closing statement. Mr. LaGanke presented his closing statement. There was Board discussion.

Mr. McLoughlin made a motion regarding Liquor License No. 1207A940, based upon the following facts: I personally have not seen any legal reasons why we should not approve the liquor license being that there is no legal proof that he was involved in one of these items. I move that we find the Applicant is capable, qualified and reliable, as required by A.R.S. Section 4-203(A); and based upon the following facts, there are no other liquor licenses in the location so I do not believe there is going to be a high density challenge; the municipality has not denied it; the Department of Liquor has not contested it. I move that we approve.

Motion to grant license –	McLoughlin
Seconded -	Troyan
Yay -	McLoughlin, Troyan
Nay -	Campbell, Widener
Abstained -	None
Disposition -	Motion failed

There was Board discussion. Mr. McLoughlin renewed his motion. Mr. Campbell offered amendments to Mr. McLoughlin's motion: Under personal qualifications, no violations of Title 4 at this point and all employees in the establishment have obtained Title 4 training. Also for location factors, it is compatible with nearby businesses. Mr. McLoughlin accepted the amendments.

Motion to grant license –	McLoughlin
Seconded -	Troyan
Yay -	McLoughlin, Troyan, Campbell
Nay -	Widener
Abstained -	None
Disposition -	License granted

C. Minutes: Review, Consideration and Action

Motion to approve the minutes of May 4, 2017 -	Widener
Seconded -	Troyan
Yay -	Widener, Troyan, Campbell
Nay -	None
Abstained -	McLoughlin
Disposition -	May 4, 2017, minutes approved

Motion to approve the minutes of June 1, 2017 -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan
Nay -	None
Abstained -	McLoughlin
Disposition -	June 1, 2017, minutes approved


D. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

The next meeting is September 7, 2017. Future Agenda Item: Title 4 training for laws that are effective August 9, 2017.

E. Call to the Public

None.

The Board adjourned at 1:28 p.m.


 Denise M. Bale
 Administrator of the
 Arizona State Liquor Board


 Date